



**Universal Service Administrative Company**

D. Scott Barash

Vice President and General Counsel

[sbarash@universalservice.org](mailto:sbarash@universalservice.org)

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March 14, 2002

Mr. William F. Caton  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

RE: In the Matter of Requests for Review of Decisions of the Universal Service  
Administrator, Federal-State Joint Board on Universal Service, CC Docket No. 96-45;

Administrator's Referral of Matter to Federal Communications Commission for  
Consideration of Potential Modification of Guidelines and Processing Procedures or  
Waiver

Dear Mr. Caton:

The Universal Service Administrative Company (USAC) is responsible for administering the Schools and Libraries Universal Service Support Mechanism pursuant to 47 C.F.R. Part 54. USAC has determined that, under certain unanticipated circumstances, its current administrative procedures may improperly prejudice the processing of requests for support submitted by Bishop Baumgartner Memorial School (Applicant), located in the territory of Guam, and similarly situated applicants located west of the International Dateline. In the interest of fairness and administrative efficiency, USAC believes that the appropriate course of action is for USAC to transmit to the Commission a request that the Commission consider granting a waiver of program rules in this instance.

The circumstances giving rise to this request are as follows:

USAC's Schools and Libraries Division (SLD) determines the annual deadline by which applicants must file FCC Form 471 (Form 471) to request funding. *See In re Federal-State Joint Board on Universal Service, Third Report & Order*, FCC 97-380 (rel. Oct. 14, 1997). When Applicant electronically submitted an FCC Form 471 (Form 471) for Funding Year 5, SLD's on-line system correctly indicated the date and time as within the filing window because the processing system's time clock corresponds with Eastern Standard Time (EST). However, the certification of the electronically submitted Form 471 was not submitted electronically but was mailed. The postmark affixed in Guam at the time of mailing by Applicant indicates the date west of the International Dateline correctly as January 18, 2002. At that time, the EST was before midnight on January 17,

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2002, at which time the filing window was open. When the certification was processed at SLD, however, the January 18, 2002 postmark on the certification indicated that the certification should be processed as outside of the filing.

USAC is constrained by FCC rule from providing Applicant with a remedy under the circumstances presented here. The postmark date would result in SLD's treatment of the Form 471 as having been filed outside the filing window. Given the high level of demand for Funding Year 5, such treatment would almost certainly mean funding would be denied to Applicant. Such treatment would not be the result of any mistake or omission on the part of Applicant. Thus, USAC respectfully urges the Commission to consider granting a waiver of 47 C.F.R. § 54.504(c) of the Commission's rules.<sup>1</sup>

The situation presented here demonstrates how a certification would be improperly considered outside of the filing window. It is further noted that any manually filed form that is postmarked west of the International Dateline but at a time prior to the closing of the filing window at 11:59 p.m. EST would be similarly processed. Since this situation could recur in future funding years, we respectfully urge that you clarify that this recommended treatment of applications submitted from points west of the International Dateline be applied in future funding years as well.

Thank you for your prompt attention to this situation. We would be pleased to provide any additional information you may require and to answer any questions you may have about this matter.

Sincerely,

D. Scott Barash  
Vice President and General Counsel

cc: Mark Seifert, FCC Common Carrier Bureau  
George McDonald

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<sup>1</sup> See Letter from D. Scott Barash, Universal Service Administrative Company, to Magalie Roman Salas, Federal Communications Commission, dated April 25, 2001; Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 01-1725 (rel. July 23, 2001).